Credit Control and Debt Collection Policy

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1. SCOPE OF THE POLICY

1.1 This Policy applies to all administrations within the defined boundaries of the Tokologo Local Municipality and all the debtors of these administrations.

1.2 This policy shall be enshrined in a Municipal by-law in terms of the Local Government: Municipal Systems Act No 32 of 2000 and that such Policy will be binding on the public, officials and Councillors of the Tokologo Local Municipality and that no interference in the process will be permitted.

1.3 The policy is applicable until such time as it is reviewed and such revisions to the policy are approved by Council.

2. OBJECTIVE OF THE POLICY

Section 96 of the Local Government Municipal Systems Act requires that the municipality must adopt, maintain and implement a credit and debt collection policy. The responsibility for the credit control/debt collection policy lies with the Municipal Manager as affected by section 99 of the Systems Act. Sect 100 of the Systems Act states that the Municipal Manager must implement and enforce the municipality's credit control and debt collection policy. In terms of Section 99 the Executive Mayor has the supervisory authority to oversee and monitor the implementation and enforcement of the credit control and debt collection policy, and the performance of the Municipal Manager towards implementing the policy. Therefore the Mayor must ensure that a report is submitted to Council at least every quarter.

The objective of this policy is to:

2.1 Focus on all outstanding debt as reflected on the customer's accounts.

2.2 Provide for a common credit control, debt collection and indigent policy throughout the Tokologo Local Municipality.

2.3 Facilitate implementation throughout the municipal area.

2.4 Promote a culture of good payment habits and instil a sense of responsibility towards the payment of municipal accounts and reducing debt in order to satisfy the constitutional obligation of the Council *(i.e. service delivery)*.

2.5 Collect as much of the debt in the shortest possible time without any interference in the process.

2.6 Effectively deal with defaulters in accordance with the terms and conditions of the policy.

3 DEFINITIONS

3.1 "**billing**" refers to the process of charging for services provided by issuing accounts.

3.2 "**credit control**" refers to where certain basic credit worthiness checks must be completed prior to a municipal service being provided and deposits collected.

3.3 "**debt collection**" refers to the debt recovery process and includes sanctions (warning, disconnection, adverse credit rating, legal process and/or eviction, etc.) to be applied in the event of non-payment of accounts.

3.4 "**disconnection**" means interrupting the supply of water or electricity to a debtor as a consequence of ignoring a Final Demand for payment.

3.5 "**due date**" refers to the final date of payment as shown on the account.

3.6 "**effective**" disconnection" means the physical removal of pipes and/or equipment as a consequence of unauthorised reconnection (tampering) of the disconnected service as described in 3.4.

3.7 "**financial year**" means the period as defined in legislation.

3.8 **"holistic'** refers to the combining of all debt in order to establish the total obligation the debtor has to Council.

3.9 "**interest**" will be charged on all overdue accounts based on a full month and proportional of a period outstanding as at such a rate as prescribed from time to time.

3.10 "**Municipality**" refers to all administrations within the area of Tokologo as created by the Municipal Systems Act.

3.11 "**parked arrears"** refers to those monies that were capitalized.

3.12 **"supply**" means any metered supply of water, electricity or any other service supplied by the Council.

3.13 "**tampering**" means any unauthorised interference with Council's supply, seals, pipes, wiring, connections and metering equipment to cause damage to Council's property and to evade payment for services.

4 PRINCIPLES

This policy supports the following principles:

4.1 Human dignity must be upheld at all times.

4.2 The policy must be implemented with equity, fairness and consistency.

4.3 All particulars related to debtors and their accounts must be correct at all times.

4.4 Debtors and arrangements to repay debtors shall be treated historically, but different repayment periods may be determined for different types of service, debtors or areas with a general rule that repayment periods should be in accordance with the instalments that the debtors can afford.

4.5 The implementation of this policy shall be based on sound business practices. This includes credit worthiness checks when new application for service is made.

4.6 New applications for services shall be on the prescribed form and will be subject to the prescribed deposit. Outstanding amounts may be transferred to new accounts.

4.7 New services will only be provided if there is a clearance certificate indicating all amounts due in respect of municipal services, surcharge on fees, property rates and other municipal taxes, levies and duties at the customer's previous address, if applicable.

4.8 The policy must be supported by a comprehensive communication and education strategy.

4.9 Where alternatives are available Council may provide reduced levels of service to manage the debt growth.

4.10 Debtor's may be referred to debt collection institutions and may be placed on the National Credit Rating list.

4.11 All cost incurred by Council including collection fees, attorneys fees and client fees relating the collection process shall be deemed to be tariff charges and shall be recovered from debtors.

4.12 Interest charged on overdue accounts will start on due date and shall be calculated until payment is made. The interest charged may appear in the following month's account.

4.13 The implementation of the credit control and debt collection policy may be applicable to the total outstanding account/s of a debtor and not selective accounts and it will not reverse any prior policy decision before this one.

4.14 Unauthorised consumption, connection and reconnection, the tampering with, damage and or theft of meters, service supply equipment and the reticulation network and any fraudulent activity in connection with the provision of municipal services will lead to disconnections, penalties, loss of rights and criminal prosecutions.

5 DISCRETION: NEGOTIATIONS

5.1 All the times and at every level, discretion will be used by the authorised official to implement the principles embodied within this policy and to ensure that reasonable payment is negotiated with any debtor.

5.2 The most financially beneficial arrangement to Council must at all times be negotiated.

5.3 The officials negotiating any arrangement will be subject to the authority of the duly appointed financial or legal manager and/or other authorised official on behalf of the council who may or may not accept such an arrangement.

6 CREDIT CONTROL

6.1 All new applications for the provision of any , excluding Indigents, will be subjected to the payment of a deposit and connection fee as per the tariff list and completion of the standard prescribed form.

6.2 The Council may determine due to the debtor's municipal payment record or any other credit information of any applicant that an adjustment to the basic deposit be made.

6.3 The application form makes provision for submission of board resolutions delegating authority to the applicant on behalf of any business and all other information required, as well as the commitment by any member, partner, trustee, director or wherever applicable to sign as surety in their individual capacity in the case of non-payment of municipal accounts by any principal on whose behalf the applicant is acting.

6.4 It is the responsibility of all consumers to ensure that he/she/it receives a monthly account, and if no account is received, the consumer should contact the municipal offices in his/her or its area to obtain such an account or amount, whether telephonically or in person, to be paid not later than the due date.

6.5 Should any person, business or other entity be in arrears with any services owing to the municipality tenders for delivery of any service or goods to the municipality, such tender will not be considered until all arrear debts owing to the municipality are liquidated.

6.6 Sequestration or liquidation procedures may be instituted where statutory acts of insolvency are committed.

6.7 However, special arrangement for payment of accounts in arrears for businesses or non-residential consumers may be entered into, subject to the provisions of paragraph 6.5 above.

6.8 Deposits will be payable by all applicants, except Indigents and those who are exempted from doing so by any relevant act or ordinance applicable and to which provisions the local Government/municipality's authority is subjected to.

6.9 No Councillor or Council employee will be allowed to fall in arrears on services or rates account, should this happen such councillors or employees will be dealt with in terms of the applicable section of the Municipal Systems Act.

6.10 The Council will regulate through its officials the procedure to be followed for collecting all debt due as set out in the heading hereof, but in general the following procedure is to be followed:

6.11 Interest will be charged on all overdue accounts at an interest rate that will be prime plus 2% which shall be changed by the Council from time to time, taking into consideration the provisions of the Usury Act, or any bylaw in existence in which this credit policy and debt collecting policy is to be embodied.

6.12 Should any account not be paid by due date a final demand for payment within 7 (seven) days will be issued and delivered by hand to the address of the debtor.

6.13 Should there be no response, the officials will discontinue or reduce the level of services rendered, subject however to any policy or act of Parliament and also in terms of the indigent policy of Council applicable.

6.14 The letter of demand shall warn in the official language (English) of the Tokologo Local Municipality of the possible disconnections if payment is not received by due date.

6.15 After disconnecting services the officials involved will immediately either issue summons and follow the legal process, or will instruct reputable attorneys with proven records of successful collection record to collect all arrears, subject to the following:

6.16 A sale in execution is to be avoided or only taken as a last resort and the Council's instructions in this regard have to be obtained and the Council hereby authorise and delegate these powers to the relevant officials.

6.17 The provisions of principles of human dignity as expressed in paragraph 4 above, shall also be applicable and the attorneys instructed should undertake to adhere to these principles.

6.18 In the alternative, if any debtor makes arrangements with the municipalities officials and if the arrangements are acceptable, the following will apply:

a) Interest will be charged as previously stated;

b) In the event of an annual payer, arrangements may be made to pay current and future rates monthly;

c) The principal of obtaining the best financial benefits to the Council should apply;

d) The arrangement will be called "Parked Arrears" as in terms of the definition thereof and interest will be raised on parked arrears in terms of Council's policy on interest, unless otherwise decided.

6.19 With regard to discontinuing services, the following procedure will be followed and strictly adhered to:

a) The notice must be left at the property of the debtor, advising that the supply has been disconnected and that all electric points should be considered live and water outlets should be closed so that damage is not caused.

b) The notice will also advise that the supply will only be reconnected after the amount specified on the notice has been paid or adequate arrangements be concluded.

c) The notice must also warn about the consequences of unauthorised reconnection.

d) Should any services be reconnected, this will be done as soon as possible after payment is received or arrangements made in terms of the arrangements referred to above.

e) The notice should also advise the debtor that the unauthorised reconnection of a service supply is a criminal offence, and will result in legal action being taken. In this event the water or electricity supply will be so effectively disconnected that it cannot be reconnected. Any reconnection will be considered as a new application for services and the installation costs as determined by Council plus the full amount of the arrears and any unauthorised consumption will have to be paid before reconnection. The installation costs will also be considered as payable before reconnection, which costs will be determined by Council from time to time.

f) However, under exceptional circumstances, adequate arrangements made for payment may in the discretion of the authorised officials be accepted based on merits and in terms of all principles regarding and applicable to this credit policy.

6.20 In the Council's discretion, the Council will encourage the installation of energy dispensers at all times, but the policy will be that debtors whose electricity and/or water supply have been disconnected three times because of non-payment, will be compelled to install such a dispenser at own expense before the supply is reconnected, and they should also prove that arrangements for payment of debts and arrears have been made and accepted. It is also to be demanded that 25% of the value of units purchased for electricity or water may be allocated towards the payment of any municipal arrears of any nature.

6.21 Dishonoured payments by cheque or otherwise regarding payments for rates, general services, other services or payment of fines such as traffic fines etc. Any dishonoured cheque or other negotiable instrument will be handled as follows:

a) If the drawer of the cheque is an existing debtor of the Council in terms of the application form, bank costs will be debited to the account of the debtor. Debtor will be informed of the dishonoured payment by telephone, fax or personal visit with a letter of notification.

b) Should the amount not be paid together with the bank costs within three (3) days, Council will reserve the right to discontinue services forthwith.

c) Council may also refuse to accept any further cheques from the debtor.

d) Council may also institute criminal charges against the offender if so elected notwithstanding any other action.

e) Should the drawer of the cheque not be an existing debtor of Council, the debtor self will be held liable for the dishonoured payment and the same cause of action as set out above will be applied.

f) Council will also be empowered to so-called blacklisting the debtor and the drawer of any cheque or other negotiable instrument.

g) The general provisions regarding interest, payment of attorney client fees, collection commission etc. will also be applicable should the matter in the normal cause of action be handed to attorneys for collection.

6.22 No interest will be paid on accounts with credit balances and on deposits held by the municipality.

6.23 In the Council's discretion, accounts in arrear can be demanded that 20% of the value of units purchased for electricity or water may be allocated towards the payment of any municipal arrears of any nature.

7. Provisions regarding fixed property belong to council

The following provisions will be applicable to leases, including rental Schemes and Home-Ownership Arrangements, including failure to pay the Council's bonds granted to employees of the municipality.

7.1 GENERAL PRINCIPLES

It is noted that the following situations may occur:

a) Council leases property to the Council officials or members of the public.

b) The Council sells property to the Council's personnel or members of the public where applicable.

c) The Council provides bonds in order to finance the selling of property.

d) The Council does not provide finance through bonds to the purchaser of Council property.

7.2 THE FOLLOWING GENERAL PRINCIPLES WILL APPLY

e) Officials of Council will ensure that proper contracts are in place in terms of existing laws to be revised in terms of the provisions and amendments to laws through legal advisors or attorneys.

f) All bonds will be duly registered by attorneys appointed by Council.

g) Should any property be sold by means of –

a Sale of Land in terms of Instalments Act, it is necessary for registration against the title deed of such a property to be registered by attorneys appointed by Council. The contract will also be drafted in accordance with the provisions of the said Act.

h) Leases will be drafted and entered into in terms of the applicable Housing Rental Act and the Council's officials will also see to it that all provisions of the said Act are complied with.

8. Payment of rental

- Should any debtor fail to make payment and do not enter into negotiations with the Council for re-scheduling or re-payment of arrears, the bond may be called up or the necessary steps may be instituted to collect arrear rentals and/or arrear bond payments and necessary steps in terms of the Act for the Prevention of Illegal Eviction, No 19 of 1998, might be enforced through legal action.

- Should negotiations for re-scheduling of payments be successful, it will include payment of current debt plus arrears per month. Should such an arrangement be reached, it will suspend the debt collection process in terms of the negotiated agreement.

- Interest will be charged according to Council policy.

- The Ward Councillor will be informed of defaulting debtors or purchasers of property and will be requested to follow up and to protect the interest of Council as far as possible.

- Statutory Notices are only required in cases where debtors default on payments regarding purchase of property by instalments for a period more than 12 (Twelve) months and the officials concerned will see to it that such notices be sent in terms of the relevant Act.

1. The debtor will be responsible to pay all legal costs, including collection fees, attorney client fees and applicable interest and should legal action already have been taken, an acceptable debt re-scheduling agreement must be entered into before legal action is stopped and the costs concerned paid by the debtor.

In the discretion of the officials concerned on behalf of Council, the following payments will be required from debtor prior to stopping legal action:

a) After the issue of summons: normal payment plus arrears to be paid in three (3) monthly payments plus all legal costs as in terms of Council's policy;

b) Judgment having been obtained: normal charges plus 2 time total payments plus all legal costs as in terms of Council's policy;

c) Eviction day: all legal costs in terms of Council's policy and all arrears.

Should an arrangement be not adhered to, Council maintains the right to proceed with further legal action without any notice.

All payments to be made in terms of rental schemes or selling of property contracts are to be made in advance by due date.

The attorney will only start legal process with letters of demand where applicable and will always act in terms of the general conditions of this policy and in terms of the provisions of contracts and leases entered into between debtors and the Council.

9. Arrangements – General principle

When making arrangements for arrear debts, the following will be applicable:

Current charges must always be paid in full.

The debtor will be required to prove his income and expenditure in order to ascertain whether he is in a position or able to make reasonable payment of arrears within his ability to pay.

The provisions of the Magistrate's Court Act No 32 of 1944 as amended and the rules applicable thereto will at all times be used. In this regard special training will be given to officials with regard to procedures in terms of Section 57 and Section 58 of the said Act.

All income and expenditure statements must be accompanied by payslips and proof and expenditure.

Arrangements will be subject to periodical review.

Debit orders may be arranged with the bank of debtor by the debtor himself, but it is noted that all garnishee orders must be served by the Sheriff in terms of the provisions of the Magistrate's Court Act as recently amended.

In extreme cases any debtor may apply to the municipal manager or the financial manager to in short-term use discretion in favour of the debtor. In this regard factors such as death in the family etc. may be taken into consideration, but should the debtor not comply with the arrangement, there will be no further extensions.
Any debtor in arrears will be required to comply with arrangements to re-schedule their debt in terms of the Council's provisions applicable and current accounts to be paid will not be negotiable.

Council will in the event of non-payment follow collection procedures to be streamlined by further extension if necessary of this policy or annexure thereto so that maximum efficiency for collecting outstanding debts is reached.

10. Disputes

In this item “dispute” refers to the instance when a debtor questions the correctness of any account rendered by the Municipality.

In order for a dispute to be registered with the Municipality, the following procedures must be followed:

By the debtor

a) The dispute must be submitted in writing or dictated to the official who will record it in writing and have it signed as correct. The document must then immediately be lodged with the relevant authorised official.

b) No dispute will be registered verbally whether in person or over the telephone.

c) The debtor must furnish his full personal particulars including his account number, direct contact telephone number, fax number, e-mail addresses and any other relevant particulars required by the Municipality.

d) The full nature of the dispute must be described in the correspondence referred to above.

e) The onus will be on the debtor to ensure that he receives a written acknowledgement of the dispute.

By the Municipality

f) On receipt of the dispute the following actions are to be taken:

- All disputes received are to be recorded in a register kept for that purpose. The following information should be entered into this register:
  (i) debtors account number;
  (ii) debtors name;
  (iii) debtors address;
  (iv) full particulars of the dispute;
  (v) name of the official to whom the dispute is given to investigate and resolve in accordance with the provisions contained in this Policy;
  (vi) actions that have, or were, taken to resolve the dispute;
  (vii) signature of the controlling official

- An authorised controlling official will keep custody of the register and conduct a daily or weekly check or follow-up on all disputes as yet unresolved.
- A written acknowledgement of receipt of the dispute must be provided to the debtor.

g) The following provisions apply to the consideration of disputes:

- All disputes must be concluded by the Municipal Manager within 14 (fourteen) calendar days from receipt thereof.

- The Municipal Manager's decision is final and will result in the immediate implementation of any debt collection and credit control measures provided for in this Policy after the debtor is provided with the outcome of the appeal.

- The same debt will not again be defined as a dispute in terms of this paragraph and will not be reconsidered as the subject of a dispute.

- If the debtor is not satisfied with the outcome of his dispute, he or she may lodge an appeal in terms of section 62 of the Systems Act.

h) The Municipality reserves the right to declare a dispute on any account as may be deemed necessary.

11. Irrecoverable Debts

On a regular basis the Municipal Manager should review the list of all long outstanding debts. All debtors outstanding for longer than 90 days should be handed over to the attorneys for collection.

The Municipal Manager should recommend all write off to the Council for approval after he/she is satisfied that:

- All reasonable steps have been taken to recover the debt, in accordance with the credit control and debt collection policy, but there is still a balance of the debt remaining;
- Recovery of the debt would be uneconomical;
- Recovery would cause undue hardship to the debtor or his/her dependants;
- It would be an advantage to the Municipality to effect a settlement of its claim or to waive the claim.

The Council should approve all write offs.

12. Consolidation of debtor's accounts

As stipulated in Section 102 of the Municipal Systems Act No. 32 of 2000:Tokologo Local municipality may:

- consolidate any separate accounts of persons liable for payments to the municipality;
- credit a payment by such a person against any account of such a person and;
- Implement any of the debt collection and credit control measures provided for in this policy in relation to any arrears on any of the accounts of such a person.

The above mentioned procedures will not apply where there is a dispute between the municipality and a debtor concerning any specific amount claimed by the municipality from that person.

The municipality must provide an owner of the property in its jurisdiction with copies of accounts sent to the occupier of the property for municipal services supplied to such a property if the owner requests such accounts in writing from the municipality.

13. Theft and Fraud

a) The Municipality condemns theft and fraud of municipal services and will monitor the service networks for signs of suspected tampering or irregularities. If it appears that any service was utilised or consumed without prior authorisation, or that any of the Council's property or equipment used for the provision or

measuring of services has been stolen, tampered with or damaged, the matter must be investigated and can lay criminal charges if and where it deems it to be appropriate.

b) The Council may approve specific penalties and distinguish between cases of vandalism and theft.
c) Subsequent acts of suspected tampering might lead to a refusal to supply certain services for at least 90 days (in) or other periods decided by Council.
d) Reconnection of water and electricity can involve the installation of a prepay type meter.
e) The reconnection will be considered as a new application and current installation costs will apply.
f) Penalties will be determined by Council and reviewed on a yearly basis (refer to the tariff list).

14. Prepaid water and electricity

The right to water and electricity – Supply:

The ordinary meaning of 'discontinuation' is that something is made to cease to exist. When installing pre paid meters the water and/or electricity supply does not cease to exist when a prepaid meter temporarily stops the supply of water and/or electricity. It is suspended until the member purchases further credit, whereupon the supply recommences. It is better understood as a temporary suspension in supply, not a discontinuation.

The municipality has the option to replace conventional water and/or electricity meters with prepaid meters and visa versa.

15. Once-off settlement of debt

The Municipal Manager or Chief Financial Officer may accept once-off settlement amounts for arrear accounts if it is in the best interest of the Council. All settlement transactions must be reported to Council.

16. Unallocated consumption and services

When electricity and water consumption is recorded on a property during a period for which there is no registered customer against whom a bill can be raised, the relevant charges for services and interest shall be raised against the registered owner’s consolidated bill.